



OHIO DEPARTMENT OF TRANSPORTATION
CENTRAL OFFICE, P.O. Box 899, COLUMBUS, OHIO 43216-0899

July 16, 1999

DOCKET FILE COPY ORIGINAL

Ms. Magalie Roman Salas
Commission Secretary
Federal Communications Commission
Portals II, 445 12th Street SW
Suite TW-A325
Washington, D.C. 20554

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JUL 19 1999
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Re: File No. NSD-L-99-24
CC Docket No. 92-105

Dear Ms. Salas:

The Ohio Department of Transportation (ODOT) is pleased to submit comments to the Federal Communications Commission in support of the petition by the US Department of Transportation for assignment of an abbreviated dialing code (N-1-1) to access Intelligent Transportation Systems (ITS) services nationwide.

Our comments to the docket are attached as Exhibit "A". The PUCO Order granting ODOT use of the 2-1-1 dialing code, on a limited basis, is attached as Exhibit "B". There has been substantive data collection and analysis of our experience with a N-1-1 dialing code through ARTIMIS. We will defer to the Kentucky Transportation Cabinet's docket comments, dated July 9, 1999, to cover the in-depth technical aspects of this experience.

On September 4, 1997 the Public Utilities Commission of Ohio (PUCO) granted ODOT the use of the 2-1-1 dialing code. This was the first instance of a landline N-1-1 dialing code used in Ohio for the Advanced Regional Traffic Interactive Management and Information System (ARTIMIS) traveler information service. Although a N-1-1 number was available in Ohio for cellular telephone users, the Ohio residents using land lines were required to dial a seven-digit number. The Kentucky Transportation Cabinet had already been granted the use of a N-1-1 number for landline calls prior to ODOT authorization. This eventually became an opportunity to evaluate the effectiveness of a three-digit number versus a seven-digit number for the same purpose during the same time period. The evaluation indicated that the three-digit number generated over 72% greater use of the ARTIMIS traveler information service than the seven-digit number, on a per-capita basis. Our evaluation also shows an 85% satisfaction rate with the current 2-1-1 number and an indication that over 80% of the users surveyed would benefit from a nationwide N-1-1 dialing code for traffic information.

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ODOT had filed a request with the PUCO on April 10, 1995, but the Commission did not act upon the request due to an outstanding FCC Docket (CC Docket 92-105) which was to address N-1-1 usage and other abbreviated dialing codes. The FCC had left this docket under review until February 1997 when a decision was released. The PUCO then acted upon the ODOT request finding that the department had met the burden of proof of showing public benefit which would result from implementation of a N-1-1 dialing code for a limited time period. The Commission then assigned 2-1-1 as the dialing code. The "burden of proof" substantiated in ODOT's request in 1997 did not include the results of the recent evaluation of the ARTIMIS TATS and utilization of the abbreviated dialing codes used in the Northern Kentucky/Cincinnati area. We believe the evaluation adds even more credibility to the assignment of a N-1-1 dialing code for advanced traveler information systems.

The Ohio Department of Transportation is supportive of a N-1-1 dialing code, specifically "2-1-1", for traveler information services nationwide and appreciates the opportunity to provide comment.

Respectfully,

A handwritten signature in black ink that reads "Gordon Proctor" followed by a stylized monogram or initials "DRE".

Gordon Proctor
Director

GP:gs

(OCM:RFH:RDY:DWK:GWS)

Attachments

Exhibit A

N-1-1 Usage In Ohio

Application of a Traveler Information Telephone Number

On June 28, 1995 the Advanced Regional Traffic Interactive Management and Information System (ARTIMIS) began operation of the Traveler Advisory Telephone Service (TATS). This service compiles traffic data collected through a variety of sources and then disseminates information via a dial-up telephone service. Initially, the seven-digit number 333-3333 was requested from the Local Exchange Carrier (LEC) as market research indicated that an easy-to-remember number would enhance use of the system. This number was the best available number that could be obtained direct from the Local Exchange Carrier.

In November of 1995 the Kentucky Transportation Cabinet provided the N-1-1 number of "3-1-1" to access the ARTIMIS TATS for landline users in the Northern Kentucky area. Cellular access was available using the seven-digit number concurrent with the introduction of the TATS. The 3-1-1 dialing code for cellular calls was made available concurrent with Kentucky's provision of the three-digit number for landline access.

The N-1-1 Dialing Code in Ohio

On October 28, 1993, the Public Utilities Commission of Ohio opened the 93-1799 generic docket for the purpose of deciding whether to order Ohio's LECs to allocate abbreviated dialing codes for enhanced and information service providers.

On April 10, 1995, in recognition of the need for a three-digit number for ARTIMIS traveler information services, ODOT filed a request with the Public Utilities Commission of Ohio (PUCO) for an N-1-1 dialing code. ODOT's request was based upon the belief that a three-digit dialing code would enable the department to provide the best service to its customers. This request was not immediately acted with the PUCO having cited the FCC Docket in 1992 (CC Docket 92-105) which addressed N-1-1 and other abbreviated dialing codes. As noted in the PUCO Opinion and Order, this issue had been under review by the FCC for approximately the next five years until February 19, 1997 when the FCC released a decision.

On April 4, 1997 ODOT filed a letter in the PUCO 93-1799 docket requesting the 3-1-1 dialing code. The PUCO conclusion in 93-1799 specifically states that the policy of the Commission should be not to assign N-1-1 service codes for commercial enhanced or informational services. After review of the FCC 97-51 Order, the PUCO granted ODOT the 2-1-1 dialing code under Case No. 93-1799-TP-COI on September 4, 1997.

While the delay in having an N-1-1 dialing code assigned concurrent with Kentucky was unfortunate from Ohio motorists' standpoint, it did provide a time frame when data could be collected to support the use of a N-1-1 dialing code for traveler information. Early in 1997, the FCC issued an order to reserve 3-1-1 for non-emergency local government use to ease the burden of non-emergency calls being placed to 911. Subsequently the Kentucky

Transportation Cabinet received permission from the Kentucky Public Services Commission to use 2-1-1. At this time both Ohio and Kentucky were using 2-1-1 for the ARTIMIS TATS. The cellular telephone companies providing service in the Cincinnati/Northern Kentucky area also furnished the 2-1-1 dialing code although such use was not subject to the same regulatory provisions as the landline telephone services.

Usage Statistics and Benefits

Through June of 1999 the ARTIMIS TATS has received over 3 million calls since the June 1995 launch of the service. Landline access within the greater Cincinnati/Northern Kentucky area using 2-1-1 is free to the customer. Also, four cellular phone companies now provide 2-1-1 access to the TATS with no airtime charge. The landline calls are free to the public but the ARTIMIS project sponsors must pay about \$0.25 per call based upon the provisions of the agreement with the LEC. The cellular companies provide their access at no cost to the public or the project sponsors. The seven-digit number is still available for use inside and outside the 513 area code.

Call count statistics (collected as noted earlier) indicate that the 3-1-1 number in Kentucky generated over 72% greater use of the TATS than the 333-3333 number in Ohio, on a per-capita basis. In March 1998 the LEC switched all landline 3-1-1 and 333-3333 to 2-1-1 for access. There was a huge increase in calls during the changeover period due to many factors, including bad winter weather, the start of the Ft. Washington Way reconstruction project (involving major interstate routes through downtown Cincinnati) and two Kentucky reconstruction projects. A few months after this change, landline usage of 2-1-1 stabilized and showed a 91% increase in calls from the entire area. Cellular calls account for approximately 47% of all calls made to the TATS to date.

A TATS Current Use Patterns and User Satisfaction Survey was conducted by the University of Kentucky and finalized in June 1999. The survey concluded that, of the users contacted, over 99% indicated they benefited from the TATS and there was an 85% satisfaction rate with the 2-1-1 dialing code. Users very often changed their route, departure time, or destination based upon information received from the ARTIMIS TATS. Most respondents were aware that the costs of the TATS and the three-digit number were provided free-of-charge but were funded by public agencies. Approximately 65% indicated they would be willing to pay for the service. Over 80% of the users surveyed felt they would personally benefit from a nationwide N-1-1 dialing code for traffic information.

The above statistics were collected in February and March 1999, a period succeeding the PUCO order which granted ODOT the 2-1-1 dialing code on a limited basis for a two-year period. In the PUCO order it was noted that ODOT met the burden of showing public benefit which would result from a trial implementation of N-1-1 for traffic information and which would outweigh the cost to the public.

Recommendation

The Ohio Department of Transportation recommends the Federal Communications Commission to approve the use of an N-1-1 dialing code for access to Intelligent Transportation System traveler information services on a nationwide basis. We would also specifically request that the 2-1-1 dialing code be assigned.

Exhibit B

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of Redell V.)
Napper, dba Asset Protection,)

Complainant,)

v.)

Case No. 93-99-TP-CSS

United Telephone Company of Ohio and)
Sprint Communications Company, L.P.,)

Respondents.)

In the Matter of the Complaint of Dayton)
Newspapers, Inc., Springfield Newspapers,)
Inc. and The Plain Dealer Publishing Com-)
pany,)

Complainant,)

v.)

Case No. 93-1171-TP-CSS

The Ohio Bell Telephone Company,)

Respondent.)

In the Matter of the Commission Investiga-)
tion Into the Allocation of Abbreviated)
Dialing Arrangements, Such as N-1-1.)

Case No. 93-1799-TP-COI

OPINION AND ORDER

The Commission finds:

I. DISCUSSION

On January 13, 1993, Mr. Redell V. Napper, dba Asset Protection filed a complaint, docketed as Case No. 93-99-TP-CSS (93-99), against United Telephone Company of Ohio (Sprint/United) and Sprint Communications Company L.P. (Sprint), alleging that they had refused his request to be issued an N-1-1 service code,¹ which he intended to use for

¹ N-1-1 service codes are three-digit telephone numbers of which the first digit may be any digit other than 0 or 1, and the last two digits are both 1. As of the date of this Opinion and Order, designated uses have already been established for all the N-1-1 codes except 2-1-1 and 5-1-1, as follows: 3-1-1, for non-

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Ann M. W. Date Processed Sept 5, 1997

commercial purposes. Similarly, on July 14, 1993, Dayton Newspapers, Inc., Springfield Newspapers, Inc., and The Plain Dealer Publishing Company (collectively referred to as the Newspapers), filed a complaint, docketed as Case No. 93-1171-TP-CSS (93-1171), against The Ohio Bell Telephone Company (Ameritech) based on Ameritech's alleged refusal to provide each of the complainants with an N-1-1 service code. On October 28, 1993, the Commission issued an entry which initiated a generic docket, Case No. 93-1799-TP-COI (93-1799), for the purpose of deciding whether to order Ohio's local exchange companies to allocate abbreviated dialing codes, such as an N-1-1 dialing code (other than one which had already been designated for separate national use), to enhanced and information service providers. In that same entry, the Commission determined that the 93-99 docket and the 93-1171 docket should be held in abeyance pending the outcome of the generic docket, 93-1799.

By entry dated January 26, 1994, the Commission issued an entry in the 93-1799 case which requested comments on a series of questions relating to the public policy, legal, and service implementation issues surrounding the allocation of dialing codes. The following parties submitted comments in the 93-1799 docket:

Ameritech Ohio (Ameritech); The Ohio Telephone Association (aka the Ohio Telecommunications Industry Association or OTIA); United Telephone Company of Ohio (Sprint/United); GTE North Incorporated (GTE); Sprint Communications Company L.P. (Sprint); AT&T Communications of Ohio, Inc. (AT&T); MCI Telecommunications Corporation (MCI); Asset Protection (Asset Protection); Dayton Newspapers, Inc., Springfield Newspapers, Inc., and The Plain Dealer Publishing Co. (Newspapers); The Ohio Newspaper Association (ONA); The Office of Consumers' Counsel (OCC); Infodial; and Time Warner Communications (Time Warner).

Summary of Comments filed in the 93-1799 Docket

Those who submitted comments in our 93-1799 docket were asked to respond to a number of issues surrounding the allocation of N-1-1 dialing codes and other abbreviated dialing arrangements. These issues included, among other things, those relating to the Commission's jurisdiction, the public interest, the need for an N-1-1 service trial, service implementation, the recall of N-1-1 codes, and alternative dialing patterns.

With respect to the issue of the Commission's jurisdiction, OTIA responded that, while Title 49 does not specifically grant the Commission the authority to order the assignment of N-1-1 codes, the Commission could authorize it absent federal preemption. Sprint/United, on the other hand, asserts that the Commission does not have

emergency police and other government service calls; 4-1-1, for local directory assistance calls; 6-1-1, for telephone service repair calls; 7-1-1, for telecommunications relay service calls; 8-1-1, for telephone business office calls; and 9-1-1, for emergency service calls.

jurisdiction to require LEC assignment of N-1-1 codes. The Newspapers contend that Section 4905.25, Revised Code, gives the Commission the power to order provision of any service that cannot be obtained and that the FCC has not objected to state actions which have approved N-1-1 service offerings.

The comments of the Newspapers and of ONA reflect the view that the public interest would be served if a variety of informational services, such as news, weather, sports, advertising, and stock reports, could be made available to the public through the allocation of N-1-1 service codes to enhanced and information service providers. In response, OTIA contended that assigning N-1-1 codes for use by enhanced and information service providers would not be in the public interest, especially considering that the LECs are unaware of any application which cannot be fulfilled through use of an alternative abbreviated dialing plan rather than only through use of an N-1-1 service code. The OCC believes that assigning N-1-1 service codes for use by enhanced and information service providers would be in the public interest so long as any proceeds which thereby accrue to LECs are returned to rate payers and so long as the assignment of the service codes is done in accordance with federal and/or state law. Sprint/United, MCI, and Sprint all maintain a view contrary to that of ONA and of the Newspapers, that the public interest would best be served by restricting allocation of N-1-1 service codes for only nationwide uses. MCI's comments specifically reflect the view that N-1-1 allocation should be left to the FCC. OTIA and MCI have both espoused a view opposite that expressed in the Newspapers' comments, i.e., that customer confusion would result if the same service code is assigned for a different type of service.

The comments of Ameritech, the OTIA, and MCI each reflect the claim that abbreviated dialing patterns are not only technically feasible, but actually currently available as well. Rather than dispute this claim, ONA and the Newspapers assert: (1) that the Commission should not depend on alternatives to N-1-1 to fulfill the current demand for information services, and (2) that N-1-1 codes appear to be the most suitable and least costly means of providing convenient and user-friendly access to enhanced information services. On May 5, 1995, the Newspapers filed supplemental comments for the purpose of bringing to the Commission's attention certain further developments which occurred after the close of the original comment period. These developments included, first, the fact that assignments of N-1-1 codes for information services have occurred within BellSouth's service territory, and second, the fact that, in some states, 1-800 numbers are being assigned, in lieu of N-1-1 service codes, for access to telecommunications relay service.² On July 11, 1995, Ameritech responded to the Newspapers' supplemental comments, contending both that the information provided by the Newspapers does not resolve the significant issues surrounding the scarcity and use of N-1-1 numbers and, further, that the Newspapers do not represent the interests of all potential information service providers.

² A further notice of proposed rulemaking was issued simultaneously with the 97-51 Order, in which the FCC seeks comment on the technical feasibility of implementing the 7-1-1 service code for access to the Telecommunications Relay Service.

As already noted, at an earlier stage of the 93-1799 case, the Commission both sought and received comments on topics related to potential service trials and/or to actual new N-1-1 service code implementation. Given our decision, reached today, that usage of available N-1-1 codes in Ohio should be reserved for only broad-based, non-commercial, important public purposes, we find unnecessary now to summarize, here, the submitted comments which were addressed to whether and how to proceed with either a "service trial" or any actual implementation of an N-1-1 code assigned for access to commercial informational services in Ohio.

Federal Action Regarding N-1-1

Our jurisdiction to decide issues relating to the proper allocation of N-1-1 service codes is one which, as will be described in more detail below, is shared with the federal government, and specifically with the Federal Communications Commission (FCC). In fact, the FCC holds preemptive federal authority to allocate N-1-1 dialing codes for specific national purposes. Back in 1992, the FCC opened its own docket addressed to the use of N-1-1 codes and other abbreviated dialing arrangements. CC Docket No. 92-105 *In the Matter of the Use of N11 Codes and Other Abbreviated Dialing Arrangements* (CC Docket 92-105). For an approximate five year period thereafter, the overriding federal stance on N-1-1 service code assignments remained obscure while under a pending review by the FCC. As a consequence, we were reticent to issue, during that period, any decision of our own regarding N-1-1 allocation in Ohio. Finally, on February 19, 1997, the FCC released a decision (i.e., the FCC 97-51 Order) in its N-1-1 docket which bears significantly on our decision in the cases at hand. Since then, we have taken the opportunity to fully review the record and to thoroughly consider the issues presented here, in light of the FCC's recent N-1-1 decision and its implications for Ohio consumers of telephone service. Having done so, we are now prepared to issue today's decision in these cases.

Prior to the enactment of the Telecommunications Act of 1996 (the Act),³ functions relating to the administration of N-1-1 codes were performed by various entities including the FCC, the various state commissions, incumbent local exchange companies (ILECs), and Bell Communications Research (Bellcore). Since the time of the AT&T divestiture, Bellcore has served as the administrator of the North America Numbering Plan (NANP).⁴ As such, Bellcore can assign⁵ N-1-1 codes for national use. The FCC also,

³ Pub. L. No. 104-104, 110 Stat. 56 (1996).

⁴ The NANP is the basic numbering scheme for the telecommunications networks located in Anguilla, Antigua, Bahamas, Barbados, Bermuda, British Virgin Islands, Canada, Cayman Islands, Dominica, Dominican Republic, Grenada, Jamaica, Montserrat, St. Kitts and Nevis, St. Vincent, Turks & Caicos Islands, Trinidad and Tobago, and the United States (including Puerto Rico, the U.S. Virgin Islands, Guam, and the Commonwealth of the Northern Mariana Islands).

⁵ Assignment means that a numbering plan administrator announces to the industry that a particular number will be used for certain, defined services. This warns current users of that number that they will need to relinquish their use of the number when the assignment is implemented. Implementation involves, among other things: relinquishing current local uses for the number; preparing switches for the

upon its own determination that a national assignment is appropriate, could direct Bellcore to do so. Bellcore, in its role as NANP administrator, has issued specific guidelines addressing the use of N-1-1 codes.⁶ These guidelines recognize four N-1-1 codes as assigned for national use: 4-1-1 (local directory assistance); 6-1-1 (repair service); 8-1-1 (business office); and 9-1-1 (emergency services). Bellcore has also stated that the remaining N-1-1 codes, listed as "unassigned" along with any assigned codes that are not used locally (i.e., 6-1-1 and 8-1-1 in some areas), would be kept available for future assignment by the NANP administrator.

In its 97-51 Order, the FCC decided that, under the Act, the FCC has exclusive jurisdiction over "those portions of the North American Numbering Plan (NANP) that pertain to the United States." However, the FCC also found that it has authority to delegate to "State commissions or other entities all or any portion of such jurisdiction."⁷ In its order, the FCC says that it "will allow" the ILECs, the states, and Bellcore "to continue to perform the N-1-1 code administration functions that they performed at the time of the enactment of the 1996 Act ... until further Commission action."⁸ In the meantime, in its 97-51 Order, the FCC took several other important actions with regard to abbreviated dialing arrangements, including:

- (1) Assigning the 3-1-1 service code on a nationwide basis for use in accessing non-emergency police services. In this regard, the FCC has specified that "wherever 3-1-1 is currently in use for other purposes, however, we would allow that use to continue until the local government in that area was prepared to activate a non-emergency 3-1-1 service."⁹
- (2) Directing Bellcore to assign the 7-1-1 service code on a nationwide basis for use in reaching telecommunication relay services (TRS).
- (3) Establishing that a LEC may not itself offer enhanced services¹⁰ using an N-1-1 code unless that LEC offers access to the code on a reasonable nondiscriminatory basis to competing

new assigned use; modifying switches to route calls; and installing additional switching or other equipment required to provide the services contemplated.

⁶ See Bell Communications Research, BOC Notes on the LEC Networks—1994 (Issue 2), April 1994 (Network Notes), Numbering Plan and Dialing Procedures.

⁷ 47 U.S.C. Sec. 251(e).

⁸ FCC97-51 Order at page 3.

⁹ FCC 97-51 Order at page 4.

¹⁰ The term "enhanced services" as used by the FCC in its 97-51 Order refers to services, offered over common carrier transmission facilities used in interstate communications, which employ computer processing applications that act on the format, content, code, protocol or similar aspects of the subscriber's transmitted information; provide the subscriber additional, different, or restructured information; or involve subscriber interaction with stored information. See Section 64.702 (a) of the Commission's Rules, 47 C.F.R. Sec. 64.702(a). For purposes of the FCC's order, information and enhanced services are used interchangeably.

enhanced service providers in the local service area for which it is using the code to facilitate distribution of its enhanced services.¹¹

- (4) Nevertheless, the FCC specifically declined to mandate:
- (a) that N-1-1 numbers be made available for access to information services; or
 - (b) that an N-1-1 service code be designated for access to government agencies, at either the federal, state, or local level.

ODOT's Request for Allocation of 3-1-1 for Access to its Traffic Management System

On April 4, 1997, the Ohio Department of Transportation (ODOT) filed a letter in the 93-1799 docket by which it formally requested this Commission to assign to ODOT the 3-1-1 service code¹² for use in providing traffic and traveler information. According to the letter, ODOT, along with the Kentucky Transportation Cabinet,¹³ the Ohio-Kentucky-Indiana Regional Council of Governments, the Federal Highway Administration, the City of Cincinnati, and other entities, are currently developing a regional traffic management system for the greater Cincinnati-Northern Kentucky area. This system, known as ARTIMIS (Advanced Regional Traffic Interactive Management & Information System) began systems development and testing on June 28, 1996. Full system operation will occur during 1997.

ARTIMIS may be accurately described as a state-of-the art traffic management system that relies on the latest technology to provide "real-time" information to motorists or others who use the system. Although there are other similar systems in various stages of development in other cities and states, the ARTIMIS system is actually the first of its kind in this part of the United States. It provides a unique traffic operations program in one of the most congested roadway networks in the region. The purpose of ARTIMIS is to provide a centralized system for effective traffic incident detection and management of the freeway system in the Cincinnati-Northern Kentucky vicinity.

¹¹ By the terms of the Commission's 97-51 Order, the incumbent LECs are permitted to continue performing the same functions related to N-1-1 administration as they performed prior to the Act. However, in a Further Notice of Proposed Rulemaking issued simultaneously with the 97-51 Order, the FCC has proposed that such functions be transferred from LECs to a "neutral NANP administrator".

¹² ODOT's April 4, 1995 letter further indicates that "if the assignment of 3-1-1 is not possible, the use of another three-digit access number such as 2-1-1 or 5-1-1 would be acceptable."

¹³ The Kentucky Transportation Cabinet is responsible for implementing a traffic management project in the Cincinnati-Northern Kentucky area.

The contract for the development of the ARTIMIS system is between TRW and the Kentucky Transportation Cabinet. The states of Ohio and Kentucky have a formal agreement to cost-share in all phases of project development, including preliminary engineering, construction, and continued operation. Smart Route Systems is a subcontractor to TRW and has implemented the systems development and testing portion of the ARTIMIS project. This includes the availability of travel and trip planning information through touch tone and cellular phones. Based on the rulings of the Kentucky Public Service Commission,¹⁴ subscribers in Kentucky have, during a two-year trial period, been utilizing the 3-1-1 service code to access the ARTIMIS system. Cellular users in both states have also been able to access the system through 3-1-1. Ohio land-line customers currently must dial a seven-digit number (333-3333) in order to do so. ODOT believes that the use of a three-digit phone number will enable it to provide the best service to its customers. Three digit dialing arrangements are easier to remember and use than existing dialing arrangements. ODOT anticipates that the same three-digit number could be utilized in all areas thereby creating a simple system for all travelers to utilize whether they are local users or travelers passing through the area. In the same vein, according to ODOT, once both Ohio and Kentucky (and possibly Indiana as well) are utilizing a three-digit service code for traffic information, it is conceivable this could be adopted as a national standard thereby creating a system that would be available to anyone, anywhere, at any time by simply recalling a single three-digit phone number.

Response of Cincinnati Bell and OTIA to ODOT's Request

On May 5, 1997, Cincinnati Bell Telephone Company (Cincinnati Bell or CBT) filed a memorandum in response to the ODOT request for assignment of an N-1-1 service code for use in providing access to its traffic management and traveler information system. CBT believes that N-1-1 dialing patterns are a very scarce public resource which should be assigned for use only when there has been a substantial showing of a public benefit to be derived therefrom. In CBT's opinion, this threshold is not met by the utilization of the 3-1-1 service code in the manner proposed by ODOT. CBT believes that Kentucky's recent two-year experiment with 3-1-1 usage demonstrates public demand and public benefit to be so measurably low that it warrants against any continued allocation of that scarce public resource for such purposes. Attached to CBT's May 5, 1997 pleading is a copy of the Kentucky Transportation Cabinet's April 21, 1997 petition to the Kentucky Public Service Commission for an extension of the 3-1-1 service trial in Kentucky. It contains statistics which, according to CBT, demonstrate an overall lack of interest for the travel management and information service proposed, after an initial introductory period.¹⁵

¹⁴ See, *In the Matter of Investigation into the Assignment of Abbreviated N-1-1 Dialing Codes*, Administrative Case No. 343 issued June 21, 1995 by the state of Kentucky Public Service Commission.

¹⁵ Among other things, these statistics compare the volume of 3-1-1 calls made to the travel information system during the trial period versus the volume of calls made using the seven-digit code (333-3333) also available during the same period.

On June 9, 1997, OTIA filed a memorandum of support for CBT's May 5, 1997 pleading. Both CBT and OTIA point out that FCC has now proposed that the 3-1-1 dialing code should be used as a code for access to non-emergency police and other governmental services. Both submit that, as evidenced by this FCC proposal, N-1-1 service codes are a scarce resource which should be allocated only in the strictest public interest. Concurring with Cincinnati Bell's position that the use of 3-1-1 proposed by ODOT does not satisfy this test, OTIA argues that ODOT's request should be denied.

Current Status of the 3-1-1 Allocation for Traffic Management in Kentucky

On November 5, 1993, the Kentucky Public Service Commission issued an order under Administrative Case No. 343 which denied the petitions of certain entities that had requested the Kentucky Public Service Commission to order local exchange carriers to assign N-1-1 dialing codes to them for commercial purposes. The Kentucky Public Service Commission decided that allocation of the numbers requested would not be in the best interest of Kentucky telephone users or information service providers because allocating N-1-1 dialing codes would not provide the citizens of Kentucky with improved quality or quantity of service and in the long run would have a negative impact on the development of the information services market. The Kentucky Public Service Commission noted that it would not be prudent to allow private enterprises to exhaust this scarce public asset for private interest.

On April 13, 1995, the Kentucky Transportation Cabinet submitted a formal request to the Kentucky Public Service Commission seeking that it be assigned 3-1-1 for use in providing free travel information to the public using touch-tone land-line phones in the Kentucky portion of the local service area of Cincinnati Bell. By order issued on June 21, 1995, the Kentucky Public Service Commission reopened its Administrative Case No. 343 and directed Cincinnati Bell to assign to the Kentucky Transportation Cabinet the 3-1-1 service code for a period of two years from the date of the order, for use "strictly limited to the 'public service project' called ARTIMIS." The order indicated that, at the end of the two-year period, the Kentucky Public Service Commission would "review the purpose and uses made by ... [the Kentucky Transportation Cabinet] and decide whether it should be allowed to retain '3-1-1' beyond the initial two-year period." On April 21, 1997, the Kentucky Transportation Cabinet filed an petition with the Kentucky Public Service Commission seeking an extension, until September 30, 1997, of the trial use of the 3-1-1 dialing code for the provision of traveler telephone information. According to the Kentucky Transportation Cabinet, this extension is needed in order for it to explore options resulting from the FCC's February 18, 1997 Order and so as to allow time for the Public Utilities Commission of Ohio (PUCO) to respond to ODOT's request for an N-1-1 dialing code.

In its April 21, 1997 extension request, the Kentucky Transportation Cabinet makes note of the fact that the FCC has now established 3-1-1 as a national number for non-emergency police calls, and ordered that any agency currently using 3-1-1 must relinquish use of that dialing code within six months of the date of a request from a

local entity that proposes use of 3-1-1 for non-emergency police calls. However, it claims "there are no indications that any agency in the Cincinnati Bell Service area will make such a request." The Kentucky Transportation Cabinet submits that its request for extension does not conflict with the FCC order in that the extension requested, if granted, would nonetheless expire prior to six months from the date the April 21, 1997 request was made. Additionally, the Kentucky Transportation Cabinet suggests that "there are indications that the Federal Highway Administration, the California Department of Transportation (CALTRANS), the Intelligent Transportation Society of America and, perhaps other state transportation agencies, will soon file a petition with the FCC to designate either 2-1-1 or 5-1-1 for national use for providing 'telephone traveler information' in a similar manner as the Kentucky Transportation Cabinet. ATC additionally notes that CALTRANS has expressed a preference for 2-1-1."

In its request for extension, the Kentucky Transportation Cabinet indicates that it will explore four options and either relinquish the 3-1-1 dialing code or file a formal petition for permanent usage no later than August 31, 1997. The Kentucky Transportation Cabinet states that "it is expected that either the first or second option will be filed." The Kentucky Transportation Cabinet describes its four options,¹⁶ as follows:

- (1) The Kentucky Transportation Cabinet's first option is to relinquish usage of 3-1-1 or any N-1-1 dialing code. This option will be pursued unless the PUCO assigns an N-1-1 dialing code to ODOT.
- (2) The Kentucky Transportation Cabinet's second option is to petition the Kentucky Public Service Commission to assign a new dialing code, either 2-1-1 or 5-1-1. The Kentucky Transportation Cabinet described this as its "preferred option," even though it would, according to the Kentucky Transportation Cabinet, require the prior assignment of 2-1-1 or 5-1-1 to ODOT by the PUCO and satisfactory technical arrangements with cellular providers to reprogram their equipment. However, on August 13, 1997 it filed a petition with the Kentucky Public Service Commission seeking to be awarded use of the 2-1-1 dialing code.
- (3) The Kentucky Transportation Cabinet's third option is to petition Kentucky Public Service Commission to continue assignment of 3-1-1 to the Kentucky Transportation Cabinet. According to the Kentucky Transportation Cabinet, this

¹⁶ The Kentucky Transportation Cabinet has indicated that while it will not, itself, propose any other option, it will be open to other options as may be proposed by local governments, the Ohio-Kentucky-Indiana 9-1-1 committee, the PUCO, the Kentucky Public Service Commission, or Cincinnati Bell. However, the Kentucky Transportation Cabinet and ODOT cannot and will not provide financing for any usage except for transportation information purposes.

option will require the prior assignment of 3-1-1 to ODOT by the PUCO and "stated assurance by local governments that 3-1-1 will not be pursued for non-emergency police use."

- (4) The Kentucky Transportation Cabinet's fourth option is to petition along with local governments for some type of joint usage of 3-1-1. According to the Kentucky Transportation Cabinet, this option will require three things: (a) the prior assignment of 3-1-1 to ODOT by the PUCO; (b) a satisfactory technical arrangement for shared use of 3-1-1; and (c) funding of the non-emergency of the non-emergency police usage costs by local governments. The Kentucky Transportation Cabinet submits that it is not a function of either ODOT or the Kentucky Transportation Cabinet to implement the usage of non-emergency police communications but there exists the possibility to facilitate this service through one of the agencies' subcontractors.

On June 1, 1997, the Kentucky Public Service Commission issued an order which granted the Kentucky Transportation Cabinet's motion for an extension of the 3-1-1 trial use period in Kentucky until September 30, 1997. It found that the extension would "prevent disruption of the Kentucky Transportation Cabinet's program as it awaits a final decision on 3-1-1 dialing code." Further, it directed the Kentucky Transportation Cabinet to file its application regarding the future use of 3-1-1 no later than August 13, 1997 to enable the Kentucky Public Service Commission adequate time for review prior to September 30, 1997.

On August 13, 1997, the Kentucky Transportation Cabinet filed a petition with the Kentucky Public Service Commission seeking to be awarded "the use of the 2-1-1 dialing code on a permanent basis for providing telephone traveler information in the Kentucky portion of the Cincinnati Bell service area". In its petition, the Kentucky Transportation Cabinet indicated that it had considered three other options, namely (1) relinquishing pursuit of any N-1-1 dialing code, (2) joint use of 3-1-1 with a local agency or agencies and (3) continued use 3-1-1. However, the Kentucky Transportation Cabinet considers its petitioned-for use of 2-1-1 "to be the best option for motorists in the Northern Kentucky area." The Kentucky Transportation Cabinet submitted the following information, among other things, in support of its petition: (1) there is already use of 2-1-1 for governmental or public purposes; (2) there are other efforts to use 2-1-1 for telephone traveler information; (3) there is evidence to show that, even when 333-3333 access to the involved travel information system was advertised, higher usage of the system by residents of Northern Kentucky resulted, on a per capita basis, once N-1-1 access to that same system also became available.

II CONCLUSION

Jurisdiction

We find that this Commission holds the necessary jurisdictional authority to address the substantive issues presented in these cases. We recognize that our authority to adopt rules on N-1-1 usage is not, and never has been, exclusive. However, we specifically find that this Commission has long held, and still holds, the requisite authority to adopt rules and regulations pertaining to intrastate Ohio usage of all such N-1-1 codes as have not already been otherwise designated for national use. Moreover, in its 97-51 Order, the FCC has explicitly delegated to us (and other state Commissions) authority to continue to perform, until the FCC orders otherwise, those same N-1-1 code administration functions which we performed at the time of the enactment of the Act. In fact, this Commission was clearly engaged in performing N-1-1 code administrative functions when, on October 28, 1993, at a time prior to the enactment of the Act, it opened the 93-1799 generic docket for the explicit purpose of deciding whether to order Ohio's local exchange companies to allocate abbreviated dialing codes, such as an N-1-1 dialing code which had not otherwise been designated for national use, to enhanced and information service providers. Thus, in our view, our authority to decide the cases at hand and, in the process, to decide whether to authorize the assignment of any N-1-1 codes (which have otherwise not already been designated and/or assigned for national uses) has not been materially impacted by the Act as it has come to be interpreted by the FCC in its 97-51 Order.

No Allocation of N-1-1 for Access to Commercial Information Services

Having found that we still hold the requisite jurisdictional authority to proceed in these cases, the first question we wish to address is most fundamental: whether it is appropriate for us now to require LECs to assign one or more particular N-1-1 code for access to commercial enhanced and information services. Having reviewed all of the comments filed in this matter, the Commission concludes that N-1-1 service codes are an extremely limited numbering resource which, consequently, should not be assigned for access to commercial enhanced and informational services. We find, rather, that it should be the policy of this Commission, in exercising its jurisdiction to adopt regulations pertaining to intrastate Ohio usage of N-1-1 codes, to reserve such usage for only broad-based, noncommercial, important public purposes.

For several reasons, the Commission does not believe that devoting any of the very few remaining unassigned N-1-1 codes to commercial purposes would be in the public interest. First, given the limited number of N-1-1 codes which might be at all available for assignment to commercial purposes, only a few information service providers could obtain them and this could potentially result in the recipients gaining a significant advantage over their competitors, while at the same time the public would be denied the more useful applications of this resource. Second, in our view, the development of alternative dialing arrangements can suffice to accommodate the demand for

quality of access to commercial information services. We are not persuaded by the record before us that, from a user's perspective, using N-1-1 codes significantly enhances quality of access to commercial information services. Even assuming that consumers would perceive a benefit of some kind from using an N-1-1 number to access commercial information services, we find, just as the FCC did in its 97-51 Order, that "there are other ways currently available to achieve convenient dialing that do not drain scarce N-1-1 resources," including dialing arrangements which "appear to offer the same results as N-1-1 without the competitive concern of having to decide to whom the codes should be assigned."¹⁷ Third, the public is already familiar with the use of 9-1-1 and 4-1-1 for public services and to permit the use of additional N-1-1 codes for other purposes easily may result in customer confusion.

The burden should be on those parties who would seek to have us require a specific assignment of an available N-1-1 code to show that the benefit of such a requirement would outweigh its costs. Our review of the full record before us in the 93-1799 case, now allows us to make a categorical, generic finding that the public interest would not be well served by an allocation of N-1-1 codes for use by commercial informational service providers, including any information services provided for commercial purposes by incumbent LECs. Based on this finding, we can now effectively answer the only real issue presented in the 93-99 and 93-1171 complaint cases: it is neither unreasonable nor unlawful for the respondent LECs to have engaged in the conduct alleged, namely, their refusal to assign to the complainants an N-1-1 service code for use in their provision of commercial information services. Moreover, our decision today effectively establishes the unavailability of the relief sought by the complainants, namely, assignment of an N-1-1 service code for their use in providing commercial information services. Consequently, no purpose would be served by proceeding further in either case and, accordingly, each case should be dismissed and closed of record.

Allocation of an N-1-1 Service Code for Access to ODOT's Traffic Advisory System

Next, we will address ODOT's request for formal assignment of an N-1-1 service code for use in providing access to ARTIMIS, its noncommercial traffic management and traveler information service. We have today decided that, in exercising our jurisdiction to adopt regulations pertaining to intrastate Ohio usage of N-1-1 service codes, we should be careful to reserve such usage for only those projects which serve broad-based, noncommercial, important public purposes. We find that ODOT's ARTIMIS proposal falls neatly within these parameters. Clearly, ARTIMIS is a noncommercial endeavor, undertaken by a broadly-based consortium of governmental agencies, solely for the purpose of serving the public in the Cincinnati-Northern Kentucky Metropolitan Area with accurate, up-to-the-minute traffic information, thereby relieving traffic congestion and contributing positively to air quality.

¹⁷ FCC's 97-51 Order, at 13.

Further, however, a showing should be made of how the proposed allocation of the N-1-1 resource could be expected to significantly enhance accomplishment of those important public purposes. In our opinion, ODOT's proposal passes this test as well. We are not persuaded by CBT's allegations that the public demand for access to the proposed traffic information service, as evidenced in statistics derived from Kentucky's two-year trial usage of 3-1-1, is too low to now justify our allocation of an available N-1-1 service code in Ohio for that purpose. The travel and traffic management service began in both Ohio and Kentucky on June 28, 1995, using a 333-3333 dialing code. At that time, an extensive publicity campaign was launched which urged motorists and others wishing to use the system to call 333-3333. It was not until November 1995 that land-line 3-1-1 access to the system became available and, even then, only from land-line locations in Kentucky. However, so as to create no confusion between the two numbers, there was no publicity campaign utilized to promote use of the land-line 3-1-1 access. Instead, Kentucky residents only became aware of the land-line 3-1-1 access through messages provided during the course of calls made to 333-3333. Yet, despite this lack of publicity, it appears, based on calling pattern statistics compiled during January 1996, that nearly 18 percent of land-line calls made to the system by Kentucky residents were placed using the 3-1-1 dialing code. This suggests that even where access to the traffic service is available through a well publicized, relatively easy to remember seven-digit dialing pattern, N-1-1 access to the system would appear to be conducive to its use.

We find that ODOT has met its burden of showing that the public benefit which would follow from our assignment, on a trial basis only, of an available N-1-1 dialing pattern for use in accessing ODOT's proposed traffic information system will outweigh the public cost associated with that assignment. This finding, however, is tempered by certain qualifications which we now observe. First, the main cost involved in any N-1-1 service code assignment is, of course, the very use of the scarce public resource itself -- the special dialing pattern -- for the limited purpose assigned and to the exclusion of any conflicting public purposes. Obviously, any permanent N-1-1 allocation we would make now in order to serve some legitimate, if limited, public purpose leaves fewer N-1-1 codes thereafter available for serving other equally legitimate public purposes later. Any permanent assignment of an N-1-1 service code for any one particular use must be done with an intent and expectation that use of the same N-1-1 code will not be arbitrarily assigned later for some other, additional, conflicting use or purpose. Nevertheless, we recognize that we do not have unlimited jurisdiction to name or control the use to which any N-1-1 service code ultimately may be assigned. We recognize, as must those who would rely on our jurisdiction in seeking an N-1-1 service code allocation, that the FCC holds preemptive authority to assign N-1-1 service codes on a national basis. Thus, if the FCC were ever to assign a separate, conflicting national purpose to the use of any N-1-1 service code which we, today, would allocate pursuant to our own limited jurisdiction, it would likely become eventually necessary that our assigned use would need to be relinquished in deference to the prevailing national use assigned by the FCC.

There are several specific reasons why we are persuaded that ODOT should be permitted to pursue a two-year trial of its proposed use of an N-1-1 service code. We

note that ODOT's ARTIMIS project serves a public purpose which is not only important, broad-based, and noncommercial, but also one that generally enhances the provision of state government service as well. Additionally, our decision also takes into account the fact that there is already in place, in both the states of Ohio and Kentucky, an existing traffic management system which will, most likely, be put to better use if N-1-1 access to it is established in both states. In short, ODOT has shown us that its proposed noncommercial use of an N-1-1 service code qualifies as at least one, of perhaps many, types of uses for which the N-1-1 service codes should be reserved. Further, it so happens that ODOT is the only entity who presently stands before us seeking to be assigned an N-1-1 service code for a proposed use which, in our view, meets such qualifications. However, under the circumstances presented, and based on the limited record before us, we remain unwilling to make a permanent assignment of any N-1-1 code in order to accommodate ODOT's proposed use. Rather, we are only willing to grant ODOT a chance to carry on with its proposed N-1-1 use during a two-year pilot period, which shall commence immediately.

Which N-1-1 Code to Assign to ODOT's Proposed Use?

Having determined that ODOT has sufficiently justified, on a trial basis only, its request for allocation of an available N-1-1 dialing code for use in accessing its traffic and travel information system, we turn next to the question of which specific N-1-1 service code to assign to that purpose. When it comes to a selection of which N-1-1 service code to be used, we share ODOT's expressed desire to see conformity from jurisdiction to jurisdiction, if possible, so that, eventually, the same three-digit number could be easily remembered and utilized by travelers everywhere. However, realistically, this is not within our own limited authority to accomplish. We cannot predict when, if ever, the FCC may come to designate any N-1-1 service code for national use in accessing travel and traffic management information. If and when it does so, we are confident that access to ODOT's travel information system can be configured in such a way as to conform with the national standard. As things presently stand, however, there is no national, or even regional, standardized N-1-1 service code designation established for use in accessing travel and traffic management information. Even ODOT and the Kentucky Transportation Cabinet, as partners in the traffic management project involved here, cannot seem to agree on which N-1-1 they would like to share: ODOT's expressed preference is for a permanent assignment in both states of the 3-1-1 dialing code, while the Kentucky Transportation Cabinet's expressed preference is for assignment in both states of the 2-1-1 code.

Certainly, we have the authority to assign either the 2-1-1 or the 3-1-1 service code to ODOT's proposed use. We could choose to assign the 2-1-1 service code, premised, at least in part, on the fact that presently it has no other designated use in Ohio. Alternatively, even under the FCC's 97-51 decision, we have clearly retained the discretionary authority to assign the 3-1-1 service code for use, in Ohio, in accessing other government services besides those related to the provision of police and other emergency services. Such "other" governmental services could, in fact, include travel and traffic

management information services, such as those provided through ARTIMIS by ODOT. Importantly, in determining how to exercise this discretionary authority in this case, however, we recognize that the primary objective of the FCC, when it designated the 3-1-1 service code for use in accessing non-emergency police and other governmental services, has been to alleviate unnecessary 9-1-1 traffic congestion which can result if 9-1-1 is too often used improperly to call police and other emergency service providers in non-emergency situations. We think this purpose might be defeated if we were to, now, further complicate the matter by designating other distinct, though not necessarily conflicting, reasons for persons in the Cincinnati area to use the 3-1-1 service code. Therefore, rather than now assign the 3-1-1 service code in response to ODOT's request (under the premise that its designated national use, for non-emergency calls to police and other emergency service providers, could be effectively shared with a governmental, noncommercial use in providing travel and traffic management information), we think it makes more sense, instead, based on the record before us, to initiate a pilot project under which, for a limited, two-year period, the 2-1-1 service code will be designated for the use proposed by ODOT in this case.

In closing, we wish to reiterate that we are not willing to make any permanent assignment of the 2-1-1 service code now, based on the limited record before us. Rather, we are only willing, at this juncture, to establish a two-year pilot use, by ODOT of the 2-1-1 service code. The Commission hereby reserves and, as necessary upon completion of this two-year pilot program, will exercise its discretionary authority to reevaluate the whole question of whether any assignment of 2-1-1 service code should be made, much less the narrower question of how well the public will have been served by ODOT's pilot program. Along the way, we intend to give due consideration to any actions taken by the FCC and/or by the Kentucky Public Service Commission affecting the use of 2-1-1 service code in Ohio and/or Kentucky.

IV. ORDER

It is, therefore,

ORDERED, That the policy of this Commission, in exercising its jurisdiction to adopt regulations pertaining to intrastate Ohio usage of N-1-1 codes, shall be to reserve such usage for only broad-based, noncommercial, important public purposes. It is, further,

ORDERED, That, because this policy effectively establishes the unavailability of the relief sought by the complainants in the 93-99 and 93-1171 cases, namely, assignment of an N-1-1 service code for their use in providing commercial information services, no purpose would be served by proceeding further in either case and, accordingly, each case is hereby dismissed and closed of record. It is, further,

ORDERED, That, in accordance with the above findings, ODOT's April 4, 1997 request is granted on a limited basis, such that, for a two-year period commencing on

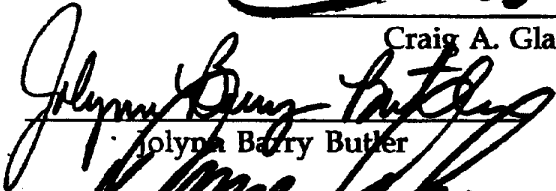
the date of the journalization of this entry, Cincinnati Bell Telephone Company shall make the 2-1-1 service code available to ODOT for use in providing, on a noncommercial basis by means of its ARTIMIS project, travel and traffic management information services throughout those portions of the greater Cincinnati-Northern Kentucky Metropolitan Area which are located within Ohio. It is, further,

ORDERED, That copies of this Opinion and Order be served on all local exchange companies in the state of Ohio and upon parties of record in these cases.

THE PUBLIC UTILITIES COMMISSION OF OHIO



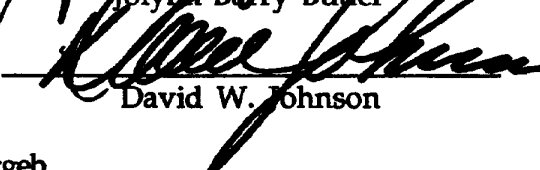
Craig A. Glazer, Chairman



Jolynn Barry Butler



Ronda Hartman Fergus



David W. Johnson



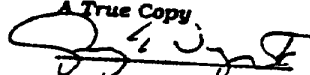
Judith A. Jones

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Gary E. Vigorito
Secretary